

ASSEMBLY BILL 2890

LENDING INSTITUTION EMPLOYEE ACCOUNTABILITY ACT OF 2006

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ISSUE

With the rapid increase in the number of mortgage lenders in the state and the expansion of financing options in recent years, customers are often bombarded with confusing choices when needing a home loan. Often, consumers narrow the market by searching for a loan officer with specific expertise or training that distinguishes industry knowledge and integrity.

The rapid increase in competition for customers between lenders can sometimes result in a lender's loan officer misrepresenting their training, certifications, or expertise, in order to generate business.

Currently, there is no protection in place to prevent a loan officer, who is persistent in his/her unethical behavior, from establishing employment with another lending institution and continuing to put consumers at risk.

EXISTING LAW

The Department of Corporations (DOC) licenses and regulates mortgage lending corporations in California. Current law allows DOC to reprimand a mortgage lending corporation that misleads consumers in their mortgage lending advertising in promotion of their business.

THIS BILL

The intent of this bill is to authorize the commissioner of the California Department of Corporations to bar a person from being employed by a licensee under the California Finance Lenders Law or the California Residential Mortgage Lending Act if the commissioner finds that the person has committed certain acts for the purpose of misleading the public regarding his or her qualifications or experience.

SUMMARY

As amended, this bill:

- Holds individual loan originators accountable for their actions when originating, marketing or approving loans.
- Creates a quality assurance for any consumer seeking a loan from one of these licensees.
- Takes the enforcement capability of the DOC a step further by allowing the Department to ban from employment any employee of a mortgage lending corporation licensee who willingly misrepresents their personal training, certifications, or expertise, in order to mislead customers to generate business without knowledge of the corporation.

FAQS

How will this benefit consumers?

It will eliminate those bad actors in the industry who falsify credentials, certifications, and or training in order to gain the confidence of the consumer.

Isn't there fraud protection already in law to protect consumers?

While there are general fraud provisions, this bill clarifies and expands the regulatory reach of the DOC, in cases of misrepresentation, beyond just the corporation, but to the individual loan originators that work for the mortgage lender, essentially building additional individual accountability under a corporate license.

Have there been documented violations?

The California Association of Mortgage Brokers (CAMB) has experienced regular violations where loan originators fraudulently use established trademarks to attract consumers.

BACKGROUND

In the State of California there are 415 residential mortgage licensees (RML) and 3590 California financial service licensees (CFL) with no concept of the number of loan officers operating under these large umbrellas.

Loan officers perform a wide range of financial service duties including: interviewing loan applicants and researching and evaluating their financial status, verifying references, evaluating credit, evaluating the ability to repay a loan, and approving or rejecting applications within specified limits.

Recent high profile mortgage lending fraud cases show the need for the enhancement and clarification of the regulator's enforcement ability to reach into mortgage corporations and examine the actions of individuals.

Loan originators who are willing to misrepresent themselves in their presentation to consumers are more likely to mislead consumers in the mortgage lending process itself. With abusive lending practices being a high profile issue, identifying and removing fraudulent loan originators from the marketplace is an important step towards protecting consumers and providing consumers with trustworthy and credible guideposts when navigating the home buying process.

SUPPORT

California Association of Mortgage Brokers
(Sponsor)
Consumers Union

OPPOSITION

None on file.

STATUS

August 23, 2006-Enrolled .

FOR MORE INFORMATION

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